



REMUNERATION TRIBUNAL

Explanatory Statement: Remuneration Tribunal (Specified Statutory Offices – Remuneration and Allowances) Determination 2022

1. The *Remuneration Tribunal Act 1973* (the Act) establishes the Remuneration Tribunal (the Tribunal) as an independent statutory authority responsible for reporting on and determining the remuneration, allowances and entitlements of key Commonwealth office holders. These include Judges of Federal Courts and most full-time and part-time holders of public offices, including Specified Statutory Offices. An additional function of the Tribunal is to determine a classification structure for Principal Executive Offices and the terms and conditions applicable to each classification within the structure.

Consultation

2. Section 11 of the Act advises that in the performance of its functions the Tribunal:
 - may inform itself in such manner as it thinks fit;
 - may receive written or oral statements;
 - is not required to conduct any proceeding in a formal manner; and
 - is not bound by the rules of evidence.
3. The Tribunal normally receives submissions on remuneration from a portfolio minister, or a secretary, program manager or employing body (in respect of a Principal Executive Office) with responsibility for the relevant office(s). The Tribunal will normally seek the views of the relevant portfolio minister prior to determining remuneration for an office.
4. The Tribunal may reach a decision based on the information provided in the submission and other publicly available information such as portfolio budget statements, annual reports, corporate plans, legislation and media releases. On occasion it may wish to meet with relevant parties or seek further information from the relevant minister or person making the submission.
5. Amongst other relevant matters in deliberating on appropriate remuneration for an office the Tribunal informs itself on:
 - the main functions, responsibilities and accountabilities of the office;
 - the organisational structure, budget and workforce;
 - the requisite characteristics, skills or qualifications required of the office holder(s); and
 - the remuneration of similar, comparator, offices within its jurisdiction.

Review of Remuneration for Holders of Public Office

6. The Tribunal's obligations, under sub-sections 7(3) and 8(1)(b) of the Act are to make determinations in respect of remuneration for various offices within its jurisdiction at periods of not more than one year. To meet these obligations, the Tribunal issued determinations on 15 June 2021 and at that time determined no adjustment to remuneration for all offices in its jurisdiction.
7. In complying with its obligations to make new determinations the Tribunal takes the opportunity to consider whether any general increase to remuneration for offices might be warranted. In conducting this review the Tribunal takes account of economic conditions in Australia, past and projected movements in remuneration in the public and private sectors (including the Australian Public Service), as well as the outcomes of reviews of public offices completed by the Tribunal. In order to inform its conclusions the Tribunal draws upon authoritative external sources such as the published material available from the Government, the Reserve Bank of Australia and the Australian Bureau of Statistics as well as trends in public and private sector remuneration. The Tribunal is also obliged by the Act to consider the Annual Wage Reviews of the Fair Work Commission. The Commission's 2021 decision was taken into account, as its 2022 decision was not available at the time the Tribunal concluded its deliberations.
8. The Tribunal did not receive any submissions on this matter.
9. On 13 June 2022 the Tribunal decided to determine a general adjustment of 2.75 per cent to remuneration for public offices in its jurisdiction with effect from 1 July 2022. A statement setting out the Tribunal's reasons for decision is available at www.remtribunal.gov.au.
10. *Remuneration Tribunal (Specified Statutory Offices – Remuneration and Allowances) Determination 2022* formalises the Tribunal's decision for Specified Statutory Offices.
11. Consultation on this outcome was considered unnecessary given the matters considered by the Tribunal in making its decision.

Chief of the Defence Force

12. Convention requires the Chief of the Defence Force to receive the same total remuneration as the Secretary of the Department of Defence. As a result of the Tribunal's adjustment of the secretaries remuneration structure, the remuneration of the Secretary of the Department of Defence will receive total remuneration 5 per cent less than that received by the Secretary of the Department of the Prime Minister and Cabinet. Remuneration for the Chief of the Defence Force has also been set at this rate. Consultation on this outcome was considered unnecessary given the matters considered by the Tribunal in making its decision.

Retrospectivity

13. Any retrospective application of this determination is in accordance with subsection 12(2) of the *Legislation Act 2003* as it does not affect the rights of a

person (other than the Commonwealth or an authority of the Commonwealth) to that person's disadvantage, nor does it impose any liability on such a person.

Exemption from sunseting

14. Under section 12, item 56 of the Legislation (Exemptions and Other Matters) Regulation 2015, an instrument required to be laid before the Parliament under subsection 7(7) of the *Remuneration Tribunal Act 1973* is exempt from the provisions of paragraph 54(2)(b) of the *Legislation Act 2003*.
15. This exemption has been granted by the Attorney-General because the Remuneration Tribunal has a statutory role independent of government.
16. As the Remuneration Tribunal makes new principal determinations annually, this principal determination is unlikely to have any practical effect beyond the usual 10 year sunseting period. As such, the exemption from sunseting will not have a practical impact on parliamentary oversight of the relevant measures.

The power to repeal, rescind and revoke, amend and vary

17. Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Details of the determination are as follows:

PART 1 – PRELIMINARY

18. Part 1 specifies the authority for and the commencement date of the determination and supersedes the previous principal *Remuneration Tribunal (Specified Statutory Offices - Remuneration and Allowances) Determination 2021* (as amended) applying to the offices covered by this determination. This part also contains definitions of certain words used in the determination.

PART 2 – REMUNERATION

19. Part 2 sets out the total remuneration and travel arrangements effective from 1 July 2022 unless specified. It implements the general adjustment described in paragraph 9 of this document.
20. Remuneration for the office of Chief of the Defence Force has been adjusted in Table 2A to maintain parity with the Secretary of the Department of Defence.
21. The provisions of this Part otherwise remain unchanged from those contained in Part 2 of the previous determination.

PART 3 - SUPERANNUATION

22. Part 3 sets out the superannuation arrangements.
23. The provisions in Part 3 remain unchanged from those contained in the previous determination.

PART 4 – VEHICLES AND OTHER BENEFITS

24. Part 4 sets out the provisions relating to vehicles, parking and housing assistance for the Chief of the Defence Force.
25. The provisions in Part 4 remain unchanged from those contained in the previous determination.

SCHEDULE 1 – REPEALS

26. Schedule 1 specifies instruments which have been amended or repealed.

Authority: Subsections 7(3) and 7(4)
Remuneration Tribunal Act 1973

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Remuneration Tribunal (Specified Statutory Offices - Remuneration and Allowances) Determination 2022

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Overview of the Legislative Instrument

The legislative instrument, or determination, formalises the Tribunal's review decision to determine an adjustment of 2.75 per cent to remuneration for Specified Statutory Offices from 1 July 2022. It also adjusts the remuneration of the Chief of the Defence Force to retain parity with that of the Secretary of the Department of Defence.

The determination supersedes the previous *Determination Remuneration Tribunal (Specified Statutory Offices - Remuneration and Allowances) Determination 2021* (as amended).

The changes follow a review of remuneration (and significantly related matters) carried out by the Tribunal consistent with sub-section 7(3) of the *Remuneration Tribunal Act 1973*.

The instrument maintains the principle of fair, and current, remuneration for work performed.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

The Remuneration Tribunal